

BASE CONTRACT FOR SHORT-TERM SALE AND PURCHASE OF NATURAL GAS

This Base Contract is entered into as of the following date: July 1, 2001

The parties to this Base Contract are the following:

CALIFORNIA DEPARTMENT OF WATER RESOURCES and **DYNEGY MARKETING AND TRADE**

3310 El Camino Avenue Suite 120, Sacramento, CA 95821

1000 Louisiana, Suite 5800, Houston, TX 77002-5050

Duns # _____

Duns # _____

Contract # _____

Contract # _____

Attn: Garney L. Hargan

Attn: Contract Administration

Phone: 916-574-0290 Fax: 916-574-0301

Phone: 713-507-6400 Fax: 713-767-5931

Federal Tax ID Number: _____

Federal Tax ID Number: _____

Invoices (see Attachment for Payments):

DWR c/o Interstate Gas Services, Inc.

2600 Kitty Hawk Road Suite 101, Livermore, California 945501000 Louisiana, Suite 5800, Houston, TX 77002-5050

Att: Ms. Suzanne McFadden,

Phone: 925-243-0350 Fax: 925-243-0349

Wire Transfer or ACH Nos. (if applicable) _____

Invoices and Payments:

Dynegy Marketing and Trade

Att: Gas Accounting

Phone: 713-507-6400 Fax: 713-507-3787

Wire Transfer or ACH Nos. (if applicable) _____

This Base Contract incorporates by reference for all purposes the General Terms and Conditions for Short-Term Sale and Purchase of Natural Gas published by the Gas Industry Standards Board. The parties hereby agree to the following provisions offered in said General Terms and Conditions (select only one from each box, but see "Note" relating to Section 2.24.):

Section 1.2 Transaction Procedure <input checked="" type="checkbox"/> Oral <input type="checkbox"/> Written	Section 6. Taxes <input type="checkbox"/> Buyer Pays At and After Delivery Point <input checked="" type="checkbox"/> Seller Pays Before and At Delivery Point
Section 2.4 Confirm Deadline <input type="checkbox"/> 2 Business Days after receipt (default) <input checked="" type="checkbox"/> Same Day	Section 7.2 Payment Date <u>25th</u> date of Month following Month of delivery
Section 2.5 Confirming Party <input type="checkbox"/> Seller <input type="checkbox"/> Buyer <input checked="" type="checkbox"/> BOTH	Section 7.2 Method of Payment <input checked="" type="checkbox"/> Wire Transfer (WT) <input type="checkbox"/> Automated Clearinghouse (ACH) <input type="checkbox"/> Check
Section 3.2 Performance Obl. <input checked="" type="checkbox"/> Cover Standard <input type="checkbox"/> Spot Price Standard <i>Note: The following Spot Price Publication applies to both of the immediately preceding Standards and must be filled in after a Standard is selected.</i>	Section 13.5 CHOICE OF LAW: <u>California</u>
Section 2.24 Spot Price Publication: <u>Gas Daily</u>	
<input checked="" type="checkbox"/> Special Provisions: Number of sheets attached: 7 (Seven)	<input checked="" type="checkbox"/> Attachments: Number of sheets attached: 2 (Two)

IN WITNESS WHEREOF, the parties hereto have executed this Base Contract in duplicate.

CALIFORNIA DEPARTMENT OF WATER RESOURCES

DYNEGY MARKETING AND TRADE

(Party Name)

(Party Name)

By _____

By _____

Title _____

Title _____

DISCLAIMER: The purposes of this Contract are to facilitate trade, avoid misunderstandings and make more definite the terms of contracts of purchase and sale of natural gas. **This Contract is intended for Interruptible transactions or Firm transactions of one month or less and may not be suitable for Firm transactions of longer than one month.** Further, GISB does not mandate the use of this Contract by any party. **GISB DISCLAIMS AND EXCLUDES, AND ANY USER OF THIS CONTRACT ACKNOWLEDGES AND AGREES TO GISB'S DISCLAIMER OF, ANY AND ALL WARRANTIES, CONDITIONS OR REPRESENTATIONS, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THIS CONTRACT OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE (WHETHER OR NOT GISB KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY**

COURSE OF DEALING. EACH USER OF THIS CONTRACT ALSO AGREES THAT UNDER NO CIRCUMSTANCES WILL GISB BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY USE OF THIS CONTRACT.

GENERAL TERMS AND CONDITIONS BASE CONTRACT FOR SHORT-TERM SALE AND PURCHASE OF NATURAL GAS

SECTION 1. PURPOSE AND PROCEDURES

1.1. These General Terms and Conditions are intended to facilitate purchase and sale transactions of Gas on a Firm or Interruptible basis. "Buyer" refers to the party receiving Gas and "Seller" refers to the party delivering Gas.

The parties have selected either the "Oral" version or the "Written" version of transaction procedures as indicated on the Base Contract.

Oral Transaction Procedure:

1.2 The parties will use the following Transaction Confirmation procedure. Any Gas purchase and sale transaction may be effectuated in an EDI transmission or telephone conversation with the offer and acceptance constituting the agreement of the parties. The parties shall be legally bound from the time they so agree to transaction terms and may each rely thereon. Any such transaction shall be considered a "writing" and to have been "signed". Notwithstanding the foregoing sentence, the parties agree that Confirming Party shall and the other party may, confirm a telephonic transaction by sending the other party a Transaction Confirmation by facsimile, EDI or mutually agreeable electronic means. Confirming Party adopts its confirming letterhead, or the like, as its signature on any Transaction Confirmation as the identification and authentication of Confirming Party.

Written Transaction Procedure:

1.2 The parties will use the following Transaction Confirmation procedure. Should the parties come to an agreement regarding a Gas purchase and sale transaction for a particular Delivery Period, the Confirming Party shall, and the other party may, record that agreement on a Transaction Confirmation and communicate such Transaction Confirmation by facsimile, EDI or mutually agreeable electronic means, to the other party by the close of the Business Day following the date of agreement. The parties acknowledge that their agreement will not be binding until the exchange of non-conflicting Transaction Confirmation or the passage of the Confirm Deadline without objection from the receiving party, as provided in Section 1.3.

1.3. If a sending party's Transaction Confirmation is materially different from the receiving party's understanding of the agreement referred to in Section 1.2., such receiving party shall notify the sending party via facsimile by the Confirm Deadline, unless such receiving party has previously sent a Transaction Confirmation to the sending party. The failure of the receiving party to so notify the sending party in writing by the Confirm Deadline constitutes the receiving party's agreement to the terms of the transaction described in the sending party's Transaction Confirmation. If there are any material differences between timely sent Transaction Confirmations governing the same transaction, then neither Transaction Confirmation shall be binding until or unless such differences are resolved including the use of any evidence that clearly resolves the differences in the Transaction Confirmations. The entire agreement between the parties shall be those provisions contained in both the Base Contract and any effective Transaction Confirmation. In the event of a conflict among the terms of (i) a Transaction Confirmation, (ii) the Base Contract, and (iii) these General Terms and Conditions, the terms of the documents shall govern in the priority listed in this sentence.

SECTION 2 DEFINITIONS

2.1. "Base Contract" shall mean a contract executed by the parties that incorporates these General Terms and Conditions by reference; that specifies the agreed selections of provisions contained herein; and that sets forth other information required herein.

2.2. "British thermal unit" or "Btu" shall have the meaning ascribed to it by the Receiving Transporter.

2.3. "Business Day" shall mean any day except Saturday, Sunday or Federal Reserve Bank holidays.

2.4. "Confirm Deadline" shall mean 5:00 p.m. in the receiving party's time zone on the second Business Day following the Day a Transaction Confirmation is received, or if applicable, on the Business Day agreed to by the parties in the Base Contract; provided, if the Transaction Confirmation is time stamped after 5:00 p.m. in the receiving party's time zone, it shall be deemed received at the opening of the next Business Day.

2.5. "Confirming Party" shall mean the party designated in the Base Contract to prepare and forward Transaction Confirmations to the other party.

2.6. "Contract" shall mean the legally-binding relationship established by (i) the Base Contract and (ii) the provisions contained in any effective Transaction Confirmation.

- 2.7. "Contract Price" shall mean the amount expressed in U.S. Dollars per MMBtu, as evidenced by the Contract Price on the Transaction Confirmation.
- 2.8. "Contract Quantity" shall mean the quantity of Gas to be delivered and taken as set forth in the Transaction Confirmation.
- 2.9. "Cover Standard", if applicable, shall mean that if there is an unexcused failure to take or deliver any quantity of Gas pursuant to this Contract, then the non-defaulting party shall use commercially reasonable efforts to obtain Gas or alternate fuels, or sell Gas, at a price reasonable for the delivery or production area, as applicable, consistent with: the amount of notice provided by the defaulting party; the immediacy of the Buyer's Gas consumption needs or Seller's Gas sales requirements, as applicable; the quantities involved; and the anticipated length of failure by the defaulting party.
- 2.10. "Day" shall mean a period of 24 consecutive hours, coextensive with a "day" as defined by the Receiving Transporter in a particular transaction.
- 2.11. "Delivery Period" shall be the period during which deliveries are to be made as set forth in the Transaction Confirmation.
- 2.12. "Delivery Point(s)" shall mean such point(s) as are mutually agreed upon between Seller and Buyer as set forth in the Transaction Confirmation.
- 2.13. "EDI" shall mean an electronic data interchange pursuant to an agreement entered into by the parties, specifically relating to the communication of Transaction Confirmations under this Contract.
- 2.14. "EFP" shall mean the purchase, sale or exchange of natural Gas as the "physical" side of an exchange for physical transaction involving gas futures contracts. EFP shall incorporate the meaning and remedies of "Firm".
- 2.15. "Firm" shall mean that either party may interrupt its performance without liability only to the extent that such performance is prevented for reasons of Force Majeure; provided, however, that during Force Majeure interruptions, the party invoking Force Majeure may be responsible for any Imbalance Charges as set forth in Section 4.3. related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by the Transporter.
- 2.16. "Gas" shall mean any mixture of hydrocarbons and non-combustible gases in a gaseous state consisting primarily of methane.
- 2.17. "Imbalance Charges" shall mean any fees, penalties, costs or charges (in cash or in kind) assessed by a Transporter for failure to satisfy the Transporter's balance and/or nomination requirements.
- 2.18. "Interruptible" shall mean that either party may interrupt its performance at any time for any reason, whether or not caused by an event of Force Majeure, with no liability, except such interrupting party may be responsible for any Imbalance Charges as set forth in Section 4.3. related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by Transporter.
- 2.19. "MMBtu" shall mean one million British thermal units which is equivalent to one dekatherm.
- 2.20. "Month" shall mean the period beginning on the first Day of the calendar month and ending immediately prior to the commencement of the first Day of the next calendar month.
- 2.21. "Payment Date" shall mean a date, selected by the parties in the Base Contract, on or before which payment is due Seller for Gas received by Buyer in the previous Month.
- 2.22. "Receiving Transporter" shall mean the Transporter receiving Gas at a Delivery Point, or absent such receiving Transporter, the Transporter delivering Gas at a Delivery Point.
- 2.23. "Scheduled Gas" shall mean the quantity of Gas confirmed by Transporter(s) for movement, transportation or management.
- 2.24. "Spot Price" as referred in Section 3.2 shall mean the price listed in the publication specified by the parties in the Base Contract, under the listing applicable to the geographic location closest in proximity to the Delivery Point(s) for the relevant Day; provided, if there is no single price published for such location for such Day, but there is published a range of prices, then the Spot Price shall be the average of such high and low prices. If no price or range of prices is published for such Day, then the Spot Price shall be the average of the following: (i) the price (determined as stated above) for the first Day for which a price or range of prices is published that next precedes the relevant Day; and (ii) the price (determined as stated above) for the first Day for which a price or range of prices is published that next follows the relevant Day.
- 2.25. "Transaction Confirmation" shall mean the document, substantially in the form of Exhibit A, setting forth the terms of a purchase and sale transaction formed pursuant to Section 1. for a particular Delivery Period.
- 2.26. "Transporter(s)" shall mean all Gas gathering or pipeline companies, or local distribution companies, acting in the capacity of a transporter, transporting Gas for Seller or Buyer upstream or downstream, respectively, of the Delivery Point pursuant to a particular Transaction Confirmation.

SECTION 3 PERFORMANCE OBLIGATION

3.1. Seller agrees to sell and deliver, and Buyer agrees to receive and purchase, the Contract Quantity for a particular transaction in accordance with the terms of the Contract. Sales and purchases will be on a Firm or Interruptible basis, as specified in the Transaction Confirmation.

The parties have selected the “Cover Standard” version or the “Spot Price Standard” version as indicated on the Base Contract.

Cover Standard:

3.2 In addition to any liability for Imbalance Charges, which shall not be recovered twice by the following remedy, the exclusive and sole remedy of the parties in the event of a breach of a Firm obligation shall be recovery of the following: (i) in the event of a breach by Seller on any Day(s), payment by Seller to Buyer in an amount equal to the positive difference, if any, between the purchase price paid by Buyer utilizing the Cover Standard for replacement Gas or alternative fuels and the Contract Price, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually delivered by Seller for such Day(s); or (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in the amount equal to the positive difference, if any, between the Contract Price and the price received by Seller utilizing the Cover Standard for the resale of such Gas, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually taken by Buyer for such Day(s); or (iii) in the event that Buyer has used commercially reasonable efforts to replace the Gas or Seller has used commercially reasonable efforts to sell the Gas to a third party, and no such replacement or sale is available, then the exclusive and sole remedy of the non-breaching party shall be any unfavorable difference between the Contract Price and the Spot Price, adjusted for such transportation to the applicable Delivery Point, multiplied by the difference between the Contract Quantity and the quantity actually delivered by Seller and received by Buyer for such Day(s).

Spot Price Standard:

3.2 In addition to any liability for Imbalance Charges, which shall not be recovered twice by the following remedy, the exclusive and sole remedy of the parties in the event of a breach of a Firm obligation shall be recovery of the following: (i) in the event of a breach by Seller on any Day(s), payment by Seller to Buyer in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the Contract Price from the Spot Price; (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the applicable Spot Price from the Contract Price.

3.3. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREIN, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER THIS CONTRACT, WHETHER IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES.

SECTION 4. TRANSPORTATION, NOMINATIONS AND IMBALANCES

4.1. Seller shall have the sole responsibility for transporting the Gas to the Delivery Point(s) and for delivering such Gas at a pressure sufficient to effect such delivery but not to exceed the maximum operating pressure of the Receiving Transporter. Buyer shall have the sole responsibility for transporting the Gas from the Delivery Point(s).

4.2. The parties shall coordinate their nomination activities, giving sufficient time to meet the deadlines of the affected Transporter(s). Each party shall give the other party timely prior notice, sufficient to meet the requirements of all Transporter(s) involved in the transaction, of the quantities of Gas to be delivered and purchased each Day. Should either party become aware that actual deliveries at the Delivery Point(s) are greater or lesser than the Scheduled Gas, such party shall promptly notify the other party.

4.3. The parties shall use commercially reasonable efforts to avoid imposition of any Imbalance Charges. If Buyer or Seller receives an invoice from a Transporter that includes Imbalance Charges, the parties shall determine the validity as well as the cause of such Imbalance Charges. If the Imbalance Charges were incurred as a result of Buyer's actions or inactions (which shall include, but shall not be limited to, Buyer's failure to accept quantities of Gas equal to the Scheduled Gas), then Buyer shall pay for such Imbalance Charges, or reimburse Seller for such Imbalance Charges paid by Seller to the Transporter. If the Imbalance Charges were incurred as a result of Seller's actions or inactions (which shall include, but shall not be limited to, Seller's failure to deliver quantities of Gas equal to the Scheduled Gas), then Seller shall pay for such Imbalance Charges, or reimburse Buyer for such Imbalance Charges paid by Buyer to the Transporter.

SECTION 5. QUALITY AND MEASUREMENT

All Gas delivered by Seller shall meet the quality and heat content requirements of the Receiving Transporter. The unit of quantity measurement for purposes of this Contract shall be one MMBtu dry. Measurement of Gas quantities hereunder shall be in accordance with the established procedures of the Receiving Transporter.

SECTION 6. TAXES

The parties have selected either the "Buyer Pays At and After Delivery Point" version or the "Seller Pays Before and At Delivery Point" version as indicated on the Base Contract.

Buyer Pays At and After Delivery Point:

Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas at the Delivery Point(s) and all Taxes after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.

Seller Pays Before and At Delivery Point:

Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s) and all Taxes at the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas after the Delivery Point(s). If a party is required to remit or pay Taxes which are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.

SECTION 7. BILLING, PAYMENT AND AUDIT

7.1. Seller shall invoice Buyer for Gas delivered and received in the preceding Month and for any other applicable charges, providing supporting documentation acceptable in industry practice to support the amount charged. If the actual quantity delivered is not known by the billing date, billing will be prepared based on the quantity of Scheduled Gas. The invoiced quantity will then be adjusted to the actual quantity on the following Month's billing or as soon thereafter as actual delivery information is available.

7.2. Buyer shall remit the amount due in the manner specified in the Base Contract, in immediately available funds, on or before the later of the Payment Date or 10 days after receipt of the invoice by Buyer; provided that if the Payment Date is not a Business Day, payment is due on the next Business Day following that date. If Buyer fails to remit the full amount payable by it when due, interest on the unpaid portion shall accrue at a rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum from the date due until the date of payment; or (ii) the maximum applicable lawful interest rate. If Buyer, in good faith, disputes the amount of any such statement or any part thereof, Buyer will pay to Seller such amount as it concedes to be correct; provided, however, if Buyer disputes the amount due, Buyer must provide supporting documentation acceptable in industry practice to support the amount paid or disputed.

7.3. In the event any payments are due Buyer hereunder, payment to Buyer shall be made in accordance with Section 7.2. above.

7.4. A party shall have the right, at its own expense, upon reasonable notice and at reasonable times, to examine the books and records of the other party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment, or computation made under the Contract. This examination right shall not be available with respect to proprietary information not directly relevant to transactions under this Contract. All invoices and billings shall be conclusively presumed final and accurate unless objected to in writing, with adequate explanation and/or documentation, within two years after the Month of Gas delivery. All retroactive adjustments under Section 7. shall be paid in full by the party owing payment within 30 days of notice and substantiation of such inaccuracy.

SECTION 8. TITLE, WARRANTY AND INDEMNITY

8.1. Unless otherwise specifically agreed, title to the Gas shall pass from Seller to Buyer at the Delivery Point(s). Seller shall have responsibility for and assume any liability with respect to the Gas prior to its delivery to Buyer at the specified Delivery Point(s). Buyer shall have responsibility for and assume any liability with respect to said Gas after its delivery to Buyer at the Delivery Point(s).

8.2. Seller warrants that it will have the right to convey and will transfer good and merchantable title to all Gas sold hereunder and delivered by it to Buyer, free and clear of all liens, encumbrances, and claims.

8.3. Seller agrees to indemnify Buyer and save it harmless from all losses, liabilities or claims including attorneys' fees and costs of court ("Claims"), from any and all persons, arising from or out of claims of title, personal injury or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save it harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

8.4. Notwithstanding the other provisions of this Section 8., as between Seller and Buyer, Seller will be liable for all Claims to the extent that such arise from the failure of Gas delivered by Seller to meet the quality requirements of Section 5.

SECTION 9. NOTICES

9.1. All Transaction Confirmations, invoices, payments and other communications made pursuant to the Base Contract ("Notices") shall be made to the addresses specified in writing by the respective parties from time to time.

9.2. All Notices required hereunder may be sent by facsimile or mutually acceptable electronic means, a nationally recognized overnight courier service, first class mail or hand delivered.

9.3. Notice shall be given when received on a Business Day by the addressee. In the absence of proof of the actual receipt date, the following presumptions will apply. Notices sent by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of successful transmission, if the day on which such facsimile is received is not a Business Day or is after five p.m. on a Business Day, then such facsimile shall be deemed to have been received on the next following Business Day. Notice by overnight mail or courier shall be deemed to have been received on the next Business Day after it was sent or such earlier time as is confirmed by the receiving party. Notice via first class mail shall be considered delivered two Business Days after mailing.

SECTION 10. FINANCIAL RESPONSIBILITY

10.1. When reasonable grounds for insecurity of payment or title to the Gas arise, either party may demand adequate assurance of performance. Adequate assurance shall mean sufficient security in the form and for the term reasonably specified by the party demanding assurance, including, but not limited to, a standby irrevocable letter of credit, a prepayment, a security interest in an asset acceptable to the demanding party or a performance bond or guarantee by a creditworthy entity. In the event either party shall (i) make an assignment or any general arrangement for the benefit of creditors; (ii) default in the payment obligation to the other party; (iii) file a petition or otherwise commence, authorize, or acquiesce in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it; (iv) otherwise become bankrupt or insolvent (however evidenced); or (v) be unable to pay its debts as they fall due; then the other party shall have the right to either withhold and/or suspend deliveries or payment, or terminate the Contract without prior notice, in addition to any and all other remedies available hereunder. Seller may immediately suspend deliveries to Buyer hereunder in the event Buyer has not paid any amount due Seller hereunder on or before the second day following the date such payment is due.

10.2. Each party reserves to itself all rights, set-offs, counterclaims, and other defenses which it is or may be entitled to arising from the Contract.

SECTION 11. FORCE MAJEURE

11.1. Except with regard to a party's obligation to make payment due under Section 7. and Imbalance Charges under Section 4, neither party shall be liable to the other for failure to perform a Firm obligation, to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension, as further defined in Section 11.2.

11.2. Force Majeure shall include but not be limited to the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption of firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, or regulation promulgated by a governmental authority having jurisdiction. Seller and Buyer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

11.3. Neither party shall be entitled to the benefit of the provisions of Force Majeure to the extent performance is affected by any or all of the following circumstances: (i) the curtailment of interruptible or secondary firm transportation unless primary, in-path, firm

transportation is also curtailed; (ii) the party claiming excuse failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; or (iii) economic hardship. The party claiming Force Majeure shall not be excused from its responsibility for Imbalance Charges.

11.4. Notwithstanding anything to the contrary herein, the parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be entirely within the sole discretion of the party experiencing such disturbance.

11.5. The party whose performance is prevented by Force Majeure must provide notice to the other party. Initial notice may be given orally; however, written notification with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written notification of Force Majeure to the other party, the affected party will be relieved of its obligation to make or accept delivery of Gas as applicable to the extent and for the duration of Force Majeure, and neither party shall be deemed to have failed in such obligations to the other during such occurrence or event.

SECTION 12. TERM

This Contract may be terminated on 30 days' written notice, but shall remain in effect until the expiration of the latest Delivery Period of any Transaction Confirmation(s). The rights of either party pursuant to Section 7.4., the obligations to make payment hereunder, and the obligation of either party to indemnify the other, pursuant hereto shall survive the termination of the Base Contract or any Transaction Confirmation.

SECTION 13. MISCELLANEOUS

13.1. This Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective parties hereto, and the covenants, conditions, rights and obligations of this Contract shall run for the full term of this Contract. No assignment of this Contract, in whole or in part, will be made without the prior written consent of the non-assigning party, which consent will not be unreasonably withheld or delayed; provided, either party may transfer its interest to any parent or affiliate by assignment, merger or otherwise without the prior approval of the other party. Upon any transfer and assumption, the transferor shall not be relieved of or discharged from any obligations hereunder.

13.2. If any provision in this Contract is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Contract.

13.3. No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach.

13.4. This Contract sets forth all understandings between the parties respecting each transaction subject hereto, and any prior contracts, understandings and representations, whether oral or written, relating to such transactions are merged into and superseded by this Contract and any effective Transaction Confirmation(s). This Contract may be amended only by a writing executed by both parties.

13.5. The interpretation and performance of this Contract shall be governed by the laws of the state specified by the parties in the Base Contract, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction.

13.6. This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders and regulations of any Federal, State, or local governmental authority having jurisdiction over the parties, their facilities, or Gas supply, this Contract or Transaction Confirmation or any provisions thereof.

13.7. There is no third party beneficiary to this Contract.

13.8. Each party to this Contract represents and warrants that it has full and complete authority to enter into and perform this Contract. Each person who executes this Contract on behalf of either party represents and warrants that it has full and complete authority to do so and that such party will be bound thereby.

TRANSACTION CONFIRMATION
FOR IMMEDIATE DELIVERY

EXHIBIT A

DWR(CERS)

Date: _____, ____
Transaction Confirmation #: _____

This Transaction Confirmation is subject to the Base Contract between Seller and Buyer dated _____.
The terms of this Transaction Confirmation are binding unless disputed in writing within 2 Business Days of receipt unless otherwise specified in the Base Contract.

SELLER:

Attn: _____
Phone: _____
Fax: _____
Base Contract No. _____
Transporter: _____
Transporter Contract Number: _____

BUYER:

CALIFORNIA DEPARTMENT OF WATER RESOURCES, P.
O. Box 219001
3310 El Camino Avenue Suite 120, Sacramento, CA 95821
Attn: Garney L. Hargan
Phone: 916-574-0290
Fax: 916-574-0301
Base Contract No. _____
Transporter: _____
Transporter Contract Number: _____

Contract Price: \$ _____/MMBtu or _____

Delivery Period: Begin: _____, ____ End: _____, ____

Performance Obligation and Contract Quantity: (Select One)

Firm (Fixed Quantity):

_____ MMBtus/day
☐ EFP

Firm (Variable Quantity):

_____ MMBtus/day Minimum
_____ MMBtus/day Maximum
subject to Section 4.2. at election of
☐ Buyer or ☐ Seller

Interruptible:

Up to _____ MMBtus/day

Delivery Point(s): _____

(If a pooling point is used, list a specific geographic and pipeline location):

Special Conditions:

Seller: _____
By: _____
Title: _____
Date: _____

Buyer: _____
By: _____
Title: _____
Date: _____

SPECIAL PROVISIONS

to the BASE CONTRACT FOR SHORT TERM

SALE AND PURCHASE OF NATURAL GAS

(GISB Standard 6.3.1, version 1.4, Dated January 7, 2000)

between

CALIFORNIA DEPARTMENT OF WATER RESOURCES

P. O. Box 219001
3310 El Camino Avenue
Sacramento, CA 95821
("CDWR")

and

DYNEGY MARKETING AND TRADE

("Dynergy")

Dated: July 1, 2001

Contract # _____

The parties agree to amend the General Terms and Conditions of the Base Contract as follows:

1. The following shall be added immediately following Section 1.1:
 - 1.1.1 The parties agree that this Base Contract shall only be used for transactions having a Delivery Period of one year or less and may not be used for transactions having a delivery period in excess of one year.
2. The second sentence of Section 1.2 **Oral Transaction Procedure** shall be amended to read as follows:

Any Gas purchase and sale transaction may be effectuated in a recorded telephone conversation with the offer and acceptance constituting the agreement of the parties.

3. The third sentence of Section 1.2 **Oral Transaction Procedure** shall be deleted and replaced with the following:

The parties acknowledge that their Transaction will not be binding until the exchange of non-conflicting written Transaction Confirmations.

4. The penultimate sentence of Section 1.2 **Oral Transaction Procedure** shall be amended as follows:

“EDI” shall be deleted.

5. Section 1.3 of “Purpose and procedures” shall be modified by deleting the last sentence thereof in its entirety and replacing it with the following sentence in lieu thereof:

In the event of a conflict among the terms of “(i) a Transaction Confirmation that is fully executed or passage of the Confirm Deadline without objection from the receiving party, (ii) a recorded conversation, (iii) the Base Contract, and (iv) these General Terms and Conditions, the terms of the documents shall govern in the priority listed in this sentence.

6. Section 2.6, “Contract” is modified by inserting the phrase “as modified by the Special Provisions” between the words “Base Contract” and “and (ii)”.

7. Section 2.9 and Section 3.2 shall be amended as follows:

The phrase “or alternate fuels” shall be deleted.

8. Section 2.14 shall be deleted.

9. The following shall be added immediately following Section 2.26:

"Buyer" shall mean the purchaser of Gas in a Transaction formed pursuant to this Base Contract.

"Seller" shall mean the seller of Gas in a Transaction formed pursuant to this Base Contract.

“Fund” shall mean Department of Water Resources Electric Power Fund established by Section 80200 of the Water Code of the State of California (the “Water Code”).

“Transaction” shall mean a purchase and sale transaction formed pursuant to Section 1. for a particular delivery period.

10. Section 5, “Quality and Measurement” shall be modified by deleting the first sentence in its entirety and replacing it with the following sentence in lieu thereof:

All Gas delivered by Seller shall meet the pressure, quality and heat requirements of the Receiving Transporter.

11. Section 7, “Billing, Payment, and Audit” is modified by adding the following new Section 7.5 at the end thereof:

7.5 Notwithstanding the other provisions of this Section 7, if Gas is purchased or sold pursuant to this Base Contract or any Transaction Confirmation, the party owing the greater amount, including any related liquidated damages, interest, and payments or credits for its purchases during such calendar month (the “Debtor”) shall apply the amount owed (the “Credit Balance”) by the Debtor on or before the same due date to the other party (the “Creditor”) and, after deduction of the Credit Balance, shall pay to the Creditor the net amount in immediately available funds.

12. Section 8.2 of “Title, Warranty and Indemnity” is modified by adding the following sentence at the end thereof:

ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED.

13. The second sentence of Section 8.3 shall be amended to read as follows:

To the extent expressly permitted by law, Buyer agrees to indemnify Seller and save it harmless from all claims, from any and all other persons, arising from or out of claims regarding payment, personal injury or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

14. Section 10.1(iv) of “Financial Responsibility” shall be modified by deleting the word “or” after the semicolon at the end thereof.

15. Section 10.1(v) of “Financial Responsibility” shall be modified by adding the word “or” after the semicolon at the end thereof.

16. Section 10.1 of “Financial Responsibility” shall be modified by adding the following as Subsection (vi) after the word "or" at the end of Subsection (v) thereof:

(vi) fail to give adequate security for or assurance of its ability to perform its further obligations within two (2) Business Days of a reasonable written request by the non-defaulting party.

17. The following shall be added immediately following Section 10.2:

10.3. CDWR's obligation to make payment of amounts due hereunder from the Fund in accordance with the provisions of Sections 10.4, 10.5 and 10.6 shall be deemed adequate assurance and sufficient security in form and term acceptable to Seller for the purposes of Section 10.1.

18. The following shall be added immediately following Section 10.3:

10.4. CDWR's obligation to make payments hereunder shall be limited solely to the Fund. Any liability of CDWR arising in connection with this Base Contract or any claim based thereon or with respect thereto, including, but not limited to, any payment pursuant Section 3.2 hereof arising as the result of any breach or event of default under this Base Contract, and any other payment obligation or liability of or judgment against Buyer hereunder, shall be satisfied solely from the Fund. **NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA ARE OR MAY BE PLEDGED FOR ANY PAYMENT UNDER THIS BASE CONTRACT.** Revenues and assets of the State Water Resources Development System shall not be liable for or available to make any payments or satisfy any obligation arising under this Base Contract.

19. The following shall be added immediately following Section 10.4:

10.5. Payments made by CDWR under this Base Contract shall constitute an operating expense of the Fund payable prior to (a) payments related to all bonds, notes or other indebtedness secured by a pledge or assignment of all revenues under any obligation entered into, and rights to receive the same, and moneys on deposit in the Fund and income or revenue derived from the investment thereof or (b) payments to the general fund.

20. The following shall be added immediately following Section 10.5:

10.6. In accordance with Section 80134 of the Water Code, CDWR covenants that it will, at least annually, and more frequently as required, establish and revise revenue requirements sufficient, together with any moneys on deposit in the Fund, to provide for the timely payment of all obligations which it has incurred, including any payments required to be made by CDWR pursuant to this Base Contract. As provided in Section 80200 of the Water Code, while any obligations of CDWR pursuant to this Base Contract remain outstanding and not fully performed or discharged, the rights, powers, duties and existence of CDWR and the California Public Utilities Commission shall not be diminished or impaired in

any manner that will affect adversely the interests and rights of the Seller under this Base Contract.

21. Section 10.7 is added to the Base Contract at the end of Section 10, "Financial Responsibility" as follows:

10.7 In the event that the non-defaulting party terminates this Base Contract or a Transaction pursuant to Section 10.1, the non-defaulting party shall have the right to designate an early termination date ("Early Termination Date") as any date on or after the event of default under Section 10.1. Upon the Early Termination Date, the non-defaulting party shall have the right to liquidate all, and not less than all, Transactions(s) under this Base Contract then outstanding by: (i) closing out each Transaction(s) at its Market Value, as defined below, so that each such amount equal to the difference between such Market Value and Contract Value, as defined below, of such Transaction(s) shall be due to the Buyer under the Transaction(s) if such Market Value exceeds the Contract Value and to the Seller if the opposite is the case; and (ii) discounting each amount then due under clause (i) above to present value in a commercially reasonable manner as of the Early Termination Date (to take account of the period between the date of liquidation and the date on which such amount would have otherwise been due pursuant to the relevant Transactions); and (iii) setting off or aggregating, as appropriate, any or all settlement payments (discounted as appropriate) and (at the election of the non-defaulting party) any or all other amounts owing between the parties under this Base Contract so that all such amounts are aggregated and/or netted to a single liquidated amount payable by one party to the other. The non-defaulting party shall give notice that a liquidation pursuant to this Section 10.6 has occurred to the defaulting party no later than one Business Day following such liquidation, provided that, failure to give such notice shall not affect the validity or enforceability of the liquidation or give rise to any claim by the defaulting party against the non-defaulting party. The net amount due to any such liquidation shall be paid by the close of the business on the fifth (5th) Business Day following notice of the Early Termination Date.

For purposes of this Section 10.7, "Contract Value" means the amount of Gas remaining to be delivered or purchased on a firm basis under a Transaction multiplied by the Contract Price, and "Market Value" means the amount of Gas remaining to be delivered or purchased on a firm basis under a Transaction multiplied by the market price determined by the non-defaulting party in a commercially reasonable manner considering, among other valuations, quotations from leading dealers in gas contracts, any or all of the settlement prices of the NYMEX gas futures contracts, any or all of the settlement prices on other established gas exchanges and other bona fide third party offers. Any

extension of the term of a Transaction to which the Parties are not bound as of the Early Termination Date (including but not limited to evergreen provisions and options to extend) shall not be considered in determining Contract Values and Market Values. The rate of interest used in calculating net present value shall be determined by the non-defaulting party in a commercially reasonable manner. The parties agree that a Transaction under this Section 10.7 shall constitute a forward contract within the meaning of the United States Bankruptcy Code, and the parties agree that Dynegy under this Base Contract is a “forward contract merchant” within the meaning of the United States Bankruptcy Code.

22. Section 11.3 of Force Majeure shall be modified by deleting the word “or” before Subsection 11.3(iii) and adding the following at the end of the first sentence thereof: “or (iv) increases or decreases in gas supply due to allocation or reallocation of production by well operators, pipelines, or third parties other than regulatory agencies; (v) the loss of Buyer’s markets or Buyer’s inability economically to use or resell Gas purchased hereunder; (vi) Seller’s ability to sell Gas to a more advantageous market or Buyer’s ability to purchase gas at a price more advantageous than the Contract Price, or (vii) a regulatory agency disallowing the pass through of costs resulting from this Base Contract.

23. The following shall be added immediately following Section 13.8:

13.9. Dynegy has stated that, because of the administrative burden and delays associated with such requirements, Dynegy would not enter into this Base Contract if the provisions of the Government Code of California and the Public Contracts Code of California applicable to state contracts, including, but not limited to, advertising and competitive bidding requirements and prompt payment requirements would apply to or be required to be incorporated in this Base Contract. Accordingly, pursuant to Section 80014(b) of the Water Code, CDWR has determined that it would be detrimental to accomplishing the purposes of Division 27 (commencing with Section 80000) of the Water Code to make such provisions applicable to this Base Contract and that such provisions and requirements are therefore not applicable to or incorporated in this Base Contract.

24. The following shall be added immediately following Section 13.9:

13.10. It is understood by the parties that, with respect to the CDWR, only the following persons or such other persons as designated in writing by CDWR shall be authorized to enter into any transaction contemplated hereunder on behalf of CDWR: (1) Mark Baldwin; (2) Chuck Toney.

25. The following shall be added immediately following Section 13.10:

13.11. It is understood by the parties that the California Department of Water Resources means the California Department of Water Resources, acting solely under the authority and powers created by AB1-X, codified as Sections 80000 through 80270 of the Water Code of California, **as amended**, and not under its powers and responsibilities with respect to the State Water Resources Development System.

26. The following shall be added immediately following Section 13.11:

13.12. Each party hereby expressly consents that the other party may record, by tape or otherwise, any verbal agreements or discussions, whether telephonic or otherwise, between the parties. Each party waives any further notice of such monitoring or recording, and agrees to notify its officers, employees and agents of such monitoring or recording and to obtain any necessary consent of such officers, employees and agents. A recording of a verbal agreement may be relied upon to resolve any differences regarding the terms of a Transaction provided that a true and complete copy of such recording is made available to the party who does not possess such recording. No party may knowingly destroy or erase a recording once the possessing party becomes aware of an actual dispute in which the recording may reasonably be anticipated to be discoverable.